**THE HONOURABLE SRI JUSTICE G. CHANDRAIAH**

**W.P. No.23938 of 1995**

**Date: 31-10-2007**

**Between**:

Thota Nagendramma and another.

... Petitioners

And

The District Collector,
Guntur District and another.

...
Respondents

**ORDER**:

This writ petition has been filed seeking a *Writ of Mandamus* to declare the action of the respondents in issuing the notification dated 16-09-1994 under Section 4(1) of the Land Acquisition Act, 1894 (for short 'the Act) in respect of the land situated in Survey Nos.257/1, 258/3, 258/4, 258/5, 258/6 and 258/7 of Dandamudi village, Ponnuru Mandal, Guntur district, as illegal and void.

The case of the petitioners 1 and 2 is that they owned the land to an extent of 96 cents and Acs.2.18 cents in Survey Nos.258/5 and 257/1, 258/3, 258/4, 258/6 and 258/7 of Dandamudi village, respectively. It is submitted by the petitioners that the 1st respondent, District Collector, issued a notification dated 16-09-1994 under Section 4(1) of the Act, in respect of the land situated in the said survey numbers, wherein, the said land was sought to be acquired for the public purpose for providing house sites to the Backward Classes of Nidubrolu village. The land belonging to the petitioners is only the means for their livelihood. It is also submitted that there are executive instructions issued by the Government of Andhra Pradesh prohibiting acquisition of lands belonging to small and marginal farmers for the purpose of house sites, in the event of other lands being available at or about the same place and the land of several big rythos which are

intervening the lands of the petitioners are available. Further it is also submitted that the said notification was issued invoking urgency clause under Section 17(4) and the enquiry under Section 5-A of the Act was also dispensed with. Further, there is also inordinate delay in taking possession of the land.

Learned counsel for the petitioners submitted that the petitioners are the small and marginal farmers eking their livelihood on the said land and the Government cannot acquire the land belonging to the small and marginal farmers. Further it is also submitted that though the notification was issued on 16-09-1994, invoking urgency clause, the Government did not take any steps to acquire the said land so far, and the petitioners are still in possession of the land in question. Therefore, if the enquiry under Section 5-A of the Act is conducted, the claim of the petitioners will be considered.

Though this petition is for the year 1995, no counter affidavit has been filed by the respondents, so far.

Having regard to the facts and circumstances of the case, in the absence of counter denying the possession of the petitioners etc., and the submission made by the learned counsel for the petitioners that the petitioners are still in possession of the land in question, I deem it appropriate to dispose of the present petition with a direction to the respondents to conduct enquiry under Section 5-A of the Act and take necessary action, in accordance with law, as the said notification was issued in the

year 1994 invoking urgency clause and no steps have been taken so far to acquire the land in question.

With the above observation, the Writ Petition is disposed of, accordingly. There shall be no order as to costs.

**JUSTICE G. CHANDRAIAH**

**Date: 31-10-2007**
LSK